

**United States Environmental Protection Agency  
Region II  
290 Broadway  
New York, NY 10007**

**NOTICE OF PUBLIC COMMENT PERIOD ON  
U.S. EPA ADMINISTRATIVE COMPLAINT**

Public Notice No. 04-26

AO Docket No. SDWA-02-2004-8501

Date: June 30, 2004

**PURPOSE OF PUBLIC NOTICE**

The purpose of this notice is to solicit written comments on the issuance by the Region 2 office of the U.S. Environmental Protection Agency (EPA) of an Administrative Complaint, Docket No. SDWA-02-2004-8501, against Bob Nardelli, President of Home Depot USA, Inc., 2455 Paces Ferry, Atlanta, GA, owner and Robert Bertone, Home Depot Store #1230, 4139 Transit Rd., Williamsville, NY 14221, operator of the facility. This Complaint pertains to violation of Underground Injection Control (UIC) regulations 40 C.F.R. §§ 144.26 and 144.11. The Complaint pertains to violation of UIC regulations for failure to provide well inventory information in a timely manner and operation of unauthorized wells. The Complaint addresses five (5) UIC regulated storm water discharge wells constructed to depths where the discharge goes directly into a fractured aquifer system.

## **BACKGROUND**

Part C of the Safe Drinking Water Act (SDWA) specifically mandates regulation of the underground injection of fluids through wells to ensure that the quality of underground sources of drinking water is protected. Section 1422 of the SDWA requires the EPA to administer UIC programs in states that do not have approved UIC programs. New York has not acquired primacy over the UIC program pursuant to regulations at 40 C.F.R. Part 147, and, therefore, the EPA administers the program in New York.

The Complaint addresses five (5) storm water discharge wells that are owned by Bob Nardelli, Home Depot USA, Inc., 2455 Paces Ferry, Atlanta, GA 30339 and operated by Robert Bertone, Home Depot Store #1230, 4139 Transit Rd., Williamsville, NY 14221 (Respondents).

Respondents have failed to comply with 40 C.F.R. §§ 144.26 and 144.11. 40 C.F.R. § 144.26 requires submittal of inventory information in a timely manner; 40 C.F.R. § 144.11 requires that a UIC injection well operate under authorization to inject.

Respondents have operated storm water discharge wells constructed to a depth where the discharge goes directly into a fractured aquifer system. The fluids have been injected into or above the local aquifer, an underground source of drinking water (USDW), as defined in 40 C.F.R. §144.3 and 146.3. Respondents have not inventoried these wells pursuant to 40 C.F.R. §§ 144.26 and 144.83. Respondents have therefore lost authorization to continue operation of these wells and continues to operate them in violation of 40 C.F.R. § 144.11.

The Complaint proposes a penalty of \$20,000, submittal of an injection well inventory and additional requested information for the five (5) wells at the Williamsville facility and an injection well inventory of all Home Depot store facilities located in New York State, within sixty (60) days of the effective date of the order.

## **PUBLIC COMMENTS**

Written comments will be accepted within 30 days of this notice at the addresses below. All information submitted by Respondent is available as part of the administrative record, subject to provisions of law restricting the public disclosure of confidential information. Further information, including copies of the Complaint, may be obtained by contacting the Regional Hearing Clerk.

The administrative record for the proposed Administrative Order is available for review between 9:00 a.m. and 4:00 p.m. at the addresses listed below:

**U.S. Environmental Protection Agency**

**Region II**

**Regional Hearing Clerk**

**290 Broadway, 16th Floor (Rm 1631)**

**New York, NY 10007-1866**

**(212) 637-3247**

It is recommended that you telephone before visiting EPA Region II offices.

Dore LaPosta, Director

Division of Enforcement and Compliance Assistance